(71)

HIGH COURT OF JUDICATURE AT BILASPUR, CHHATTISGARH

SINGLE BENCH: HON'BLE SHRI S.R. NAYAK, CJ.

WRIT PETITION NO. 1622 OF 2006

PETITIONERS

1. Uday Mahavidyalaya through its principal Dr. P.L. Yadav, aged about 47 years, S/o. Shri G.R. Yadav, near ITI Colony, Chhawni, Bhilai, District Durg, (CG).
2. Chhattisgarh Hindi Parishad Samiti, Chhawni, Bhilai, District Durg, through its Secretary Dr. Tirath Ram Sahu, aged about 30 years, S/o. Dhanush Ram Sahu, Resident of Chhawni Bhilai, District Durg, (CG)

Vs.

RESPONDENTS

1. The Vice Chancellor, Pandit Ravi Shanker Shukl University, Raipur, Tahsil and District Raipur (CG).
2. The Registrar, Pandit Ravi Shanker Shukl University, Raipur, Tahsil and District Raipur (CG).
3. The Regional Director, National Council of Teaching Education, Manas Bhawan, Shyamla Hills Bhopal (MP).
4. The Commissioner, State Education Research and Training Parishad, Chhattisgarh Raipur (CG).
5. The Commissioner Higher Education, State of Chhattisgarh, D.K.S. Bhawan, Raipur (CG).

Present: Mr. Vishnu Kostha, learned counsel for the petitioners.
Mr. Pramod Kr. Verma, learned Sr. Advocate with Shri Sumit Verma, learned counsel for the respondents.

ORAL ORDER
(Passed on 3rd April, 2006)

The dispute brought before the Court relates to recognition and affiliation of the petitioner-College relating to the academic session 2005-2006. Since the pleadings are complete and academic session 2005-2006 is coming to end shortly, I thought it appropriate and just to hear this writ petition out of turn and on priority basis. Accordingly, the counsel for the parties were heard.

(2) The 1st petitioner-Educational Institution managed by the 2nd petitioner-Samiti having decided to establish a B.Ed. College with 100 intakes during the academic session 2005-2006 and having obtained no objection

(72)

certificate from the 4th respondent submitted an application to the 3rd respondent for recognition. The 3rd respondent issued order dated 26.09.2005, marked as Annexure-P/7, appended to the writ petition at page 19 of the material papers, which reads as follows:

"No.WCR/2-32/723047/77 (CON)/2005/7706 September 26, 2005

To

The Director,
Chhattisgarh State Council of Education Research & Training
Shankar Nagar, Raipur 492 006.

Sub: Recognition of secondary level Teacher Training Institutions.

Sir,

Please find enclosed the list of following institutions recognized by Western Regional Committee (NCTE) in its CONTINUED 77th meeting held on September 24-25, 2005 with an annual intake of **100** for the **B.Ed** course for the academic session **2005-2006,** subject to the condition that the college will submit the list of staff/faculty duly approved by the Registrar of the affiliating University/competent authority before commencement of the academic session. The formal order of recognition will be issued only after the receipt of this list in WRC, NCTE, Bhopal. You are requested to allow all the institutions to admit students only upto the approved intake for which recognition has been granted.

APW NO	NCTE CODE	NAME & ADDRESS OF THE INSTITUTION	COURSE	APPROVED INTAKE	ACADEMIC SESSION
APW0147	723047	UDAY COLLEGE,, BESIDE I.T.I. COLONY, CHHAWANI AREA, BHILAI DURG 490026 CHHATTISGARH	B. ED.	100	2005-2006

Also, instruct the institutions to adhere to the norms prescribed by the NCTE relating to eligibility criteria for admission; infrastructure; staff and curriculum transaction: etc. to the standard laid down by the NCTE and continuous maintenance of these norms and standards is mandatory and binding on the institution.

Yours faithfully,

Regional Director.

After the 3rd respondent issued Annexure-P/7, the petitioner submitted an application on 06.10.2005 to the 1st respondent-University for grant of affiliation depositing the prescribed fee enclosing a copy of Annexure-P/7. The application dated 06.10.2005 was followed by a reminder dated 26.10.2005. The 1st respondent did not grant affiliation sought by the petitioners in their application dated 06.10.2005. In the circumstance, this writ petition was presented on 28.03.2006 praying for the following reliefs.

"7. RELIEF(s) SOUGHT:

In view of the act and grounds stated above the petitioner seeks issue of the following relief(s) :-

1. That in view of the above facts and circumstances of the case this Hon'ble Court may kindly be please to directed the respondent no.1 and 2 to grant the provisional affiliation of petitioners institution and also permit the students of the petitioners institutions for appearing in the annual examination of B.Ed. – academic session 2005-06 which will commence from 05.04.2006.
2. The Hon'ble Court may kindly be directed to respondent No.1 and 2 to permit the students of the petitioners institutions for appearing in the annual examination of B.Ed – academic session 2005-06 which will commence from 5.4.2006 which have been admitted as per oral directions of respondent no. 1 and 2 in petitioners institution after NOC of respondent no. 4 and provisional permission of respondent no. 3.
3. That any other alternative writ or writs, order or orders, direction or directions, thought expedient and just may also please be issued.

3) The Vice-Chancellor and the Registrar of the Pt. Ravishankar Shukla University, Raipur, the respondents 1 and 2 respectively, on service of notice, have put in appearance through their counsel and contested the writ petition on merit by filing return on 31.03.2006. The substantial defense raised in the return to oppose the relief sought in the writ petition is that Annexure-P/7 cannot be termed as recognition in terms of the provisions of Section 14(3)(a) of the National Council for Teacher Education Act, 1993 (for short "the Act'). While raising that defense, at this stage itself, it needs to be noticed that all other material averments made by the petitioner, such as making applications, obtaining of no objection certificate from the 4th respondent or existence of Annexure-P/7- order made by the 3rd respondent are not disputed by the respondents 1 and 2.

4) Having heard the learned counsel for the parties and perused the pleadings filed by them, the only question that arises for decision is whether the respondent-University is justified in opining that Annexure-P/7 cannot be termed as recognition in terms of the provisions of Section 14(3)(a) of the Act. At the threshold, it needs to be noticed that though, admittedly, the petitioner submitted application on 06.10.2005 to respondents 1 and 2 after the 3rd respondent issued Annexure-P/7-order, the University did not bother to reply to the petitioners till the writ petition was filed and respondents were called upon to show-cause. At this juncture, it needs to be noticed that in para 5.8 of the writ petition, it is stated that the University had constituted a selection committee on 04.08.05 and that committee conducted interview to fill up the posts of Asst. Professors and Professors, prepared the selection list and that list was approved by the University as reflected in the letter dated 05.12.2005 produced as Annexure-P/12. This assertion made by the petitioner in para 5.8 is not seriously disputed.

5) In the background of the above facts, let me have a look at Annexure-P/7. The first sentence in Annexure-P/7 itself in unmistakable terms discloses the fact that the first petitioner-college is recognized by the Western

Regional Committee of NCTE in its Continued 77th meeting held on September 24–25, 2005. Annexure P/7 also fixes annual intake of the college at 100 for B.Ed. Course for the academic session 2005-2006. Having recognized the first petitioner -Institution and having fixed annual intake at 100, the order proceeds to point out that the recognition is "subject to the conditions that the college will submit list of staff/faculty duly approved by the Registrar of the affiliating University/competent authority before commencement of the academic session." At this stage, it needs to be noticed the role of the University (examining body as called in the Act) in terms of the provisions of Section 14 of the Act which deals with recognition of institution offering course or training in teacher education has become very much limited and circumscribed. Sub-Section (3) of Section 14 is relevant, which deals with the power of the Regional Committee of NCTE for grant of recognition to an Institution. Annexure-P/7 in an unmistakable terms would show that it is a provisional recognition granted to the first petitioner-College to run the B.Ed. course with annual intake of 100 for the session 2005-2006. Annexure –P/7 itself states that the formal order of recognition would be issued after the first petitioner-College submits the list of staff/faculty duly approved by the Registrar of the affiliated University. What is stated in para 5.8 of the writ petition would disclose that the list of staff was prepared with the approval of the University and that fact was reflected in Annxeure-P/12. Sub-Section (6) of Section 14 of the Act mandates that the respondent-University [that is to say examining body in terms of sub-Section (6)] shall, on receipt of the order under sub-Section (4), that is to say Annexure-P/7-order, grant affiliation to the institution. In terms of the duty cast on the University under sub-Section (6) and also having regard to the fact that the approved list of staff/faculty was also available with the University, the University was duty bound to grant affiliation and also to forward the approved list of staff/faculty to the 3rd respondent in order to facilitate the 3rd respondent to formally issue order of recognition as indicated in Annexure-P/7.

(6) Be that as it may, I am constrained to observe that the respondents 1 and 2 who are the University authorities, are governed by the postulates of Article 14 of the Constitution, but, they acted arbitrarily and unfairly. The indifference shown by them to the application made by the petitioners on 06.10.2005 without any response till the writ petition was filed would speak volumes. It is needless to state that the University being the State within the meaning of Article 12 of the Constitution, its every action should imbibe the values of reasonableness, fairness, non-arbitrariness. The pleadings of the respondents 1 and 2 and the arguments built upon their pleadings would not inspire the confidence of the Court that they conducted fairly, reasonably and non-arbitrarily. In the words of Lord Heward, the case of the petitioners was very badly and unfairly dealt with by the respondents 1 and 2, throwing all norms of fair procedure. No substantial ground is raised by the University in their pleadings nor in the course of arguments by their Senior Counsel on the basis of which I could possibly withhold writ sought by the petitioners. As already pointed out supra, the defence raised by respondents 1 and 2 is technical, nay, hyper technical. The parties should win or lose on substantial grounds and not on technical tortures, and particularly, particularly, such a conduct of a body like the University cannot be countenanced.

(7) In the result and for the foregoing reasons, the writ petition is allowed and the respondents 1 and 2 are directed to forward the list of staff/faculty as approved by the Registrar of the University to the 3rd respondent along with the order of affiliation. It is stated that the petitioners have already deposited affiliation fee. If the respondents 1 and 2 require the petitioners to perform any other formalities in the matter of issuing grant of affiliation, the petitioners shall perform the same, and that liberty is reserved to the petitioners.

Sd/-
Chief Justice

Brajesh